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10 **BEFORE THE**
11 **BOARD OF PHARMACY**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
13 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

Case No. 3168

14 LA DONNA MARIE ALLEN

P.O. Box 2204

15 San Rafael, CA 94912

A C C U S A T I O N

16 Pharmacy Technician Registration No.
TCH 57325

17 Respondent.

18
19 Complainant alleges:

20 **PARTIES**

21 1. Virginia Herold (Complainant) brings this Accusation solely in her official
22 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

23 2. On or about July 27, 2004, the Board of Pharmacy issued Pharmacy Technician
24 Registration Number TCH 57325 to La Donna Marie Allen (Respondent). The Pharmacy
25 Technician Registration was in full force and effect at all times relevant to the charges brought
26 herein and will expire on October 31, 2009, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Pharmacy (Board), Department of Consumer Affairs, under the authority of the following laws of the Business and Professions Code (Code).

4. Section 4300(a) of the Code states in pertinent part that every license issued may be suspended or revoked.

5. Section 4301 of the Code states in pertinent part:

The board shall take action against any holder of a license who is guilty of unprofessional conduct or whose license has been procured by fraud or misrepresentation or issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the following:

....

(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or corruption, whether the act is committed in the course of relations as a licensee or otherwise, and whether the act is a felony or misdemeanor or not.

(g) Knowingly making or signing any certificate or other document that falsely represents the existence or nonexistence of a state of facts.

....

(j) The violation of any of the statutes of this state, or any other state, or of the United States regulating controlled substances and dangerous drugs.

....

(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision or term of this chapter or of the applicable federal and state laws and regulations governing pharmacy, including regulations established by the board or by any other state or federal regulatory agency.

6. Section 4021 of the Code states "'Controlled substance' means any substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code."

7. Section 4022 of the Code states

"Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use in humans or animals, and includes the following:

(a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without prescription," "Rx only," or words of similar import.

1 (b) Any device that bears the statement: "Caution: federal law restricts this
2 device to sale by or on the order of a _____," "Rx only," or words of similar
3 import, the blank to be filled in with the designation of the practitioner licensed to
4 use or order use of the device.

5 (c) Any other drug or device that by federal or state law can be lawfully
6 dispensed only on prescription or furnished pursuant to Section 4006.

7 8. Section 4026 of the Code states that "'Furnish' means to supply by any
8 means, by sale or otherwise."

9 9. Section 4059(a) of the Code states, in pertinent part, that a person may not
10 furnish any dangerous drug except upon the prescription of a physician, dentist, podiatrist,
11 optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7.

12 10. Section 4060 of the Code provides, in pertinent part, that no person shall
13 possess any controlled substance, except that furnished to a person upon the prescription of a
14 physician, dentist, podiatrist, or veterinarian.

15 11. Section 125.3 of the Code states, in pertinent part, that the Board may
16 request the administrative law judge to direct a licensee found to have committed a violation or
17 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
18 and enforcement of the case.

19 12. Health and Safety Code section 11170 provides that no person shall
20 prescribe, administer, or furnish a controlled substance for himself.

21 13. Health and Safety Code section 11173(a) provides, in pertinent part, that
22 no person shall obtain, or attempt to obtain controlled substances by fraud, deceit,
23 misrepresentation, or subterfuge.

24 14. Health and Safety Code section 11173(b) provides, in pertinent part, that
25 no person shall make a false statement in any prescription, order, report, or record, required by
26 this division.

27 DRUGS

28 15. At all times material herein, Norco was and is a trade name for the generic
drug hydrocodone with acetaminophen which is designated by Health and Safety Code section
11056(e)(4) as a narcotic drug and a Schedule III controlled substance, and by Business and

1 Professions Code section 4022 as a dangerous drug, and is used as a narcotic analgesic in the
2 relief of pain.

3 16. At all times material herein, Xanax was and is a trade name for the generic
4 drug alprazolam which is designated by Health and Safety Code section 11057(d)(1) as a
5 Schedule IV controlled substance, and by Business and Professions Code section 4022 as a
6 dangerous drug, and is used in the treatment of anxiety.

7 **FACTS**

8 17. In or about January 2006 through July 2006, Respondent and her
9 roommate, S.B. (TCH S.B.), were both employed as pharmacy technicians at Sav-On Drugs,
10 located in Palm Desert, California.

11 18. It was discovered that Respondent and TCH S.B. were fraudulently
12 authorizing prescription refills for each other while they were working at Sav-Ons Drugs.

13 19. Respondent fraudulently authorized the following prescriptions and refills
14 for TCH S.B.:

<u>Date</u>	<u>Rx No.</u>	<u>Drug</u>	<u>Quantity</u>
1/06/06	1145324	Alprazolam 0.25 mg	30
3/20/06	1168730	Alprazolam 0.25 mg	60
4/21/06	1168730	Alprazolam 0.25 mg	60
6/30/06	1197903	Alprazolam 0.25 mg	60

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21 20. Respondent fraudulently authorized the following prescriptions and refills
22 for herself:

<u>Date</u>	<u>Rx No.</u>	<u>Drug</u>	<u>Quantity</u>
6/15/06	1194119	Hydrocodone/APAP 10-325	100 (with 5 refills fraudulently authorized)
6/15/06	1194120	Alprazolam 1 mg	60 (with 5 refills fraudulently authorized)
7/03/06	1194119	Hydrocodone/APAP 10-325	100

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21. TCH S.B. fraudulently authorized the following prescription refills for
Respondent:

<u>Date</u>	<u>Rx No.</u>	<u>Drug</u>	<u>Quantity</u>
3/09/06	1165120	Hydrocodone/APAP 5-325	100
3/30/06	1165120	Hydrocodone/APAP 5-325	100

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Unlawful Prescribing of Controlled Substances to Oneself)

22. Respondent is subject to disciplinary action under section 4301(j) in conjunction with H&S Code section 11170 for unlawfully prescribing controlled substances to herself, when she fraudulently authorized prescriptions and prescription refills for herself as more particularly alleged in paragraph 20 above and incorporated herein by reference.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Furnishing Dangerous Drugs Without a Prescription)

23. Respondent is subject to disciplinary action under section 4301(j) in conjunction with section 4059(a) in that she furnished dangerous drugs without a valid prescription from a physician, dentist, podiatrist, optometrist, veterinarian or naturopathic doctor to herself and TCH S.B. when she fraudulently authorized prescriptions and prescription refills for herself and TCH S.B. as more particularly alleged in paragraphs 19, 20 and 21 above and incorporated herein by reference.

THIRD CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Obtaining Controlled Substances by Fraud, Subterfuge)

24. Respondent is subject to disciplinary action under section 4301(j) in conjunction with H&S Code section 11173(a) for obtaining controlled substances by fraud, deceit, misrepresentation or subterfuge, when Respondent fraudulently authorized prescriptions for herself and TCH S.B. that had not been prescribed or authorized by a doctor and as more particularly alleged in paragraphs 19, 20 and 21 above and incorporated herein by reference.

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PRAYER

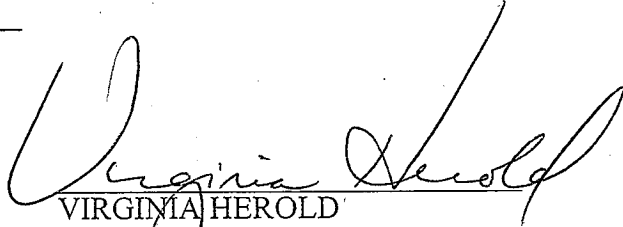
WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Pharmacy issue a decision:

1. Revoking or suspending Pharmacy Technician Registration Number TCH 57325, issued to La Donna Marie Allen;

2. Ordering La Donna Marie Allen to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and

3. Taking such other and further action as deemed necessary and proper.

DATED: 9/22/08



VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant